

Senate Bill No. 1524

CHAPTER 1089

An act to add Section 12926.1 to the Insurance Code, relating to insurance.

[Approved by Governor September 30, 2000. Filed
with Secretary of State September 30, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1524, Figueroa. Insurance: fines and penalties.

Existing law requires the Insurance Commissioner to require from every insurer in the state full compliance with the provisions of the Insurance Code.

This bill would require that any fines, penalties, fees, and costs resulting from any matter involving compliance with or enforcement of any provisions of the Insurance Code or other laws involving any entity subject to the jurisdiction of the commissioner, be deposited in the appropriate fund as provided by law.

This bill would also provide that any funds ordered, or allocated by a settlement, to be used for public outreach shall be subject to specified limitations. It would also authorize certain individuals, a city attorney, a district attorney, or the Attorney General to bring a legal action against the commissioner to enforce these provisions. It would require a court to order the commissioner to pay damages out of nonpublic funds to any prevailing party in any enforcement action arising out of a violation of the bill's provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 12926.1 is added to the Insurance Code, to read:

12926.1. (a) In any matter involving compliance with or enforcement of any of the provisions of this code or the other laws of this state involving any entity subject to the jurisdiction or authority of the commissioner, whether the matter is a formal administrative accusation or adjudication, a formal or potential judicial action, or other enforcement tool, and whether or not the matter is settled or prosecuted to resolution, the use of any funds that are imposed as fines or penalties of any sort, or collected by means of settlement, or paid or reserved in any manner as a result of the action, shall be subject to the limitations of this section.

(b) Fines, penalties, fees, and costs shall be deposited in the appropriate fund as provided by law.

(c) Any funds ordered, or allocated by a settlement, to be used for public outreach of any sort, shall be subject to all of the following limitations:

(1) The commissioner's name, likeness, or voice shall not be used in any printed, audio, or visual material that is released either for general distribution or to specific recipients unless a court finds good cause to do so.

(2) The message shall be limited to information relevant to the enforcement action or compliance issues that generated the funds.

(3) The primary focus of any public outreach where the purpose is to advise members of the public of rights affecting pecuniary or property interests shall be to provide specific information needed by the affected persons to obtain or protect those rights.

(4) No funds subject to this subdivision shall be used for general education of the public about insurance issues, except to the extent that the education relates to the type of violations that caused the enforcement or compliance action, and otherwise complies with the limitations of this section.

(5) No funds subject to this subdivision shall be spent or otherwise disposed of unless the expenditure or disposal has been approved by a court of competent jurisdiction.

(d) (1) This section may be enforced by an affected individual with an interest in the matter or a policyholder of an insurer that is a party to a settlement with the department, a city attorney, a district attorney, or the Attorney General, who may bring an action against the commissioner in the superior court in any county where a violation of this section has occurred.

(2) A court may issue injunctions or provide other equitable remedies as appear to the court to be appropriate, and shall order payment by the commissioner from nonpublic funds to a prevailing party who has brought an action under this section of an amount sufficient to compensate the party for all attorneys' fees, costs of litigation, and expenses incurred in bringing and prosecuting the action. For the purposes of this section, "nonpublic funds" does not include assets of an insurer or other party to a settlement that are not part of a valid and voluntary settlement with the department or commissioner.

(e) The commissioner may not increase fees or assessments against insurers in order to comply with this section.